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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/775,899	02/10/2004	John J. Fowler	A2000-720020	1422
37462 7590 04/03/2009 LOWRIE, LANDO & ANASTAS, LLP ONE MAIN STREET, SUITE 1100 CAMBRIDGE, MA 02142				
EXAMINER				
IBRAHIM, MOFIAMED				
ART UNIT		PAPER NUMBER		
2444				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docketing@ll-a.com
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Office Action Summary

Application No.

10/775,899

Applicant(s)

FOWLER ET AL.

Examiner

MOHAMED IBRAHIM

Art Unit

2444

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 93-178 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 93-178 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-850)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date 02/10/04, 10/12/04, 9/12/05

DETAILED ACTION

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 93, 147 and 175 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1 of U.S. Patent No. 6714977. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 93, 147 and 175 cover the scope of claim 1 in U. S. Patent No. 6714977.

3. Claims 93, 147 and 175 are provisionally rejected on the ground of nonstatutory double patenting over claims 93, 98, 103 and 107 of copending Application No. 10/775898. This is a provisional double patenting rejection since the conflicting claims have not yet been patented.

The subject matter claimed in the instant application is fully disclosed in the referenced copending application and would be covered by any patent granted on that copending application since the referenced copending application and the instant application are claiming common subject matter, as follows: Both application are directed to a method and system for monitoring computer networks and equipment. Both applications specifically address the monitoring of environmental conditions such as temperature, humidity, acoustic and airflow using external sensors.

Furthermore, there is no apparent reason why applicant would be prevented from presenting claims corresponding to those of the instant application in the other

copending application. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 93-178 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beheshti et al. (Beheshti), U. S. Patent No. 5955946 in view of Venkatraman et al. (Venkatraman), U. S. Patent No. 6139177.

Regarding claim 93, Beheshti discloses a system for monitoring a space external to the system (see Beheshti, col. 7 lines 53-59), the system comprising:
a microprocessor (see Beheshti, col. 7 lines 8-28); a memory coupled to the microprocessor, the memory including instructions for processing a sensor signal derived from at least one environmental parameter of the space external to the system and the memory including a web server application (see Beheshti, col. 7 lines 13-25);
a sensor configured to detect the at least one environmental parameter of the space external to the system and configured to generate the sensor signal derived from the at least one detected environmental parameter of the space, the sensor selected from a group consisting of a temperature sensor, a relative humidity sensor, and an air flow sensor (see Beheshti, col. 7 lines 53-59).

Although Beheshti discloses the invention substantially as claimed, it does not explicitly disclose a web server configured to provide a webpage associated with the sensor signal via the at least one port.

Venkatraman teaches a system having web access functionality in a device wherein the device's data is displayed on a web page (see Venkatraman, col. 4 lines 4-10).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to combine the teachings of Venkatraman with that of Beheshti. Motivation for doing so would have been to provide a webpage display for result of the sensor which in turn reduces the cost of having the web functionality embedded in the device (see Venkatraman, col. 2 lines 12-18).

Regarding claim 94, Beheshti-Venkatraman teaches wherein the network comprises a global computer network (see Venkatraman, col. 4 lines 11-17). The same motivation utilized in the combination of claim 93, equally applies as well to claim 94.

Regarding claim 95, Beheshti-Venkatraman teaches wherein the network comprises an intranet (see Beheshti, col. 8 lines 15-21).

Regarding claim 96, Beheshti-Venkatraman teaches wherein the network comprises a wireless network (see Venkatraman, col. 5 lines 16-27).

Regarding claim 97, Beheshti-Venkatraman teaches further comprising one or more connectors to interface with external devices (see Venkatraman, col. 3 lines 11-13).

Regarding claim 98, Beheshti-Venkatraman teaches the system further comprising a power source (see Beheshti, col. 7 lines 20-28).

Regarding claim 99, Beheshti-Venkatraman teaches wherein the power source is the excess voltage provided by an Ethernet cable coupled to an Ethernet connector (see Beheshti9, col. 7 lines 43-50).

Regarding claim 100, Beheshti-Venkatraman teaches wherein the network is accessed via a telephone (see Venkatraman, col. 1 lines 25-27).

Regarding claim 101, Beheshti-Venkatraman teaches wherein the network is accessed via an Ethernet interface, and wherein the Ethernet interface has compliant TCP/IP stacks (see Venkatraman, col. 3 lines 11-19 and col. 4 lines 18-27).

Regarding claim 102, Beheshti-Venkatraman teaches further comprising a radio frequency interface operable to communicate wirelessly within the network (see Venkatraman, col. 5 lines 16-27).

Regarding claim 103, Beheshti-Venkatraman teaches further comprising a radio frequency interface operable to communicate with a device external to the network (see Venkatraman, col. 10 lines 12-21).

Regarding claim 104, Beheshti-Venkatraman teaches wherein the microprocessor is an embedded Java microprocessor (see Beheshti, col. 7 lines 8-28).

Regarding claim 105, Beheshti-Venkatraman teaches wherein the microprocessor is a tiny internet interface microprocessor (see Beheshti, col. 7 lines 8-28).

Regarding claim 106, Beheshti-Venkatraman teaches wherein the microprocessor operates with an embedded Java software platform (see Beheshti, col. 7 lines 8-28).

Regarding claim 107, Beheshti-Venkatraman teaches wherein the sensor comprises an air flow sensor comprising a hot-wire anemometer circuit (see Beheshti, col. 4 lines 29-36).

Regarding claim 108, Beheshti-Venkatraman teaches wherein air flow is calculated (see Beheshti, col. 7 lines 53-59).

Regarding claim 109, Beheshti-Venkatraman teaches further comprising a microphone (see Venkatraman, col. 4 lines 18-25).

Regarding claim 110, Beheshti-Venkatraman teaches wherein the system generates a signal upon detecting an audible alarm (see Beheshti, col. 4 lines 12-17).

Regarding claim 111, Beheshti-Venkatraman teaches wherein the instructions for processing can be updated via the web server application (see Venkatraman, col. 5 lines 35-44).

Regarding claim 112, Beheshti-Venkatraman teaches wherein programming instructions are provided to the web server application via HTTP (see Venkatraman, col. 6 lines 53-64).

Regarding claim 113, Beheshti-Venkatraman teaches wherein the programming instructions comprise parameter threshold values (see Beheshti, col. 4 lines 29-36).

Regarding claim 114, Beheshti-Venkatraman teaches wherein the instructions for processing operably generate an alarm signal in the event that the sensor signal exceeds a parameter threshold value (see Beheshti, col. 4 lines 30-48).

Regarding claim 115, Beheshti-Venkatraman teaches further comprising instructions for generating and forwarding an email status report to at least one user (see Venkatraman, col. 4 lines 43-51).

Regarding claim 116, Beheshti-Venkatraman teaches wherein the status report indicates that the at least one environmental parameter has exceeded a corresponding threshold value (see Beheshti, col. 4 lines 29-48).

Regarding claim 117, Beheshti-Venkatraman teaches further comprising instructions for generating and forwarding an email alarm report to one or more users when the at least one environmental parameter exceeds a corresponding threshold value (see Beheshti, col. 4 lines 30-48).

Regarding claim 118, Beheshti-Venkatraman teaches further comprising instructions for generating and forwarding a status report via electronic paging (see Venkatraman, col. 3 lines 54-64).

Regarding claim 119, Beheshti-Venkatraman teaches further comprising instructions for dialing via a telephone connection to inform a system administrator of a loss of power or loss of internet protocol connection (see Venkatraman, col. 1 lines 25-27).

Regarding claim 120, Beheshti-Venkatraman teaches wherein the web server application provides an HTML interface (see Venkatraman, col. 6 lines 29-36).

Regarding claim 121, Beheshti-Venkatraman teaches wherein the HTML interface comprises an image display area, a monitored parameter display area, an alarm threshold display area, and a system user information display area (see Venkatraman, col. 4 lines 62-67).

Regarding claim 122, Beheshti-Venkatraman teaches wherein the system user information display area can be configured by a user to display customized information (see Venkatraman, col. 4 lines 52-67).

Regarding claim 123, Beheshti-Venkatraman teaches further comprising: a power source; and a rechargeable backup power source to provide power upon loss of the power source (see Beheshti, col. 7 lines 43-50).

Regarding claim 124, Beheshti-Venkatraman teaches further comprising a sensor configured to detect the failure of a power supply and notify the microprocessor of the power failure (see Beheshti, col. 7 lines 43-50).

Regarding claim 125, Beheshti-Venkatraman teaches further comprising a video imager to provide a digital image of the space (see Venkatraman, col. 4 lines 62-67).

Regarding claim 126, Beheshti-Venkatraman teaches wherein the video imager is a CMOS imager (see Venkatraman, col. 4 lines 62-67).

Regarding claim 127, Beheshti-Venkatraman teaches further comprising a binary input to activate the video imager to capture an image of the space (see Beheshti, col. 7 lines 53-59).

Regarding claim 128, Beheshti-Venkatraman teaches further comprising an external sensor, wherein the external sensor provides the binary input upon the occurrence of a preset condition (see Beheshti, col. 4 lines 30-36).

Regarding claim 129, Beheshti-Venkatraman teaches wherein the external sensor is a magnetic switch for sensing the opening of a door to the space, and wherein the preset condition is the opening of the door (see Beheshti, col. 4 lines 29-36).

Regarding claim 130, Beheshti-Venkatraman teaches further comprising a record data file to track personnel access into a room (see Beheshti, col. 4 lines 29-48).

Regarding claim 131, Beheshti-Venkatraman teaches further comprising instructions for software agents operable to investigate an internal condition of a network component, the network component accessible via the at least one port (see Beheshti, col. 3 lines 3-12).

Regarding claim 132, Beheshti-Venkatraman teaches wherein the software agents investigate the internal condition of compatible network components through communication in accordance with an interface, the interface being an SNMP, DMI, or SMBIOS interface (see Beheshti, col. 4 lines 12-28).

Regarding claim 133, Beheshti-Venkatraman teaches further comprising one or more binary outputs connected to one or more relays to control one or more external loads, and instructions for controlling the one or more binary outputs (see Beheshti, col. 3 lines 13-33).

Regarding claim 134, Beheshti-Venkatraman teaches wherein the external load is an air conditioning unit (see Beheshti, col. 3 lines 22-24).

Regarding claim 135, Beheshti-Venkatraman teaches wherein the space external to the system is located within a server room (see Beheshti, fig. 13 and col. 10 lines 45-54).

Regarding claim 136, Beheshti-Venkatraman teaches wherein the system is mountable

on a wall in a position to monitor the contents of a server room (see Beheshti, col. 10 lines 45-54).

Regarding claim 137, Beheshti-Venkatraman teaches wherein the system is configured to be mounted in an equipment rack (see Beheshti, fig. 13 and col. 10 lines 47-54).

Regarding claim 138, Beheshti-Venkatraman teaches further comprising a unique universal resource locator and static internet protocol address (see Venkatraman, col. 4 lines 11-15).

Regarding claim 139, Beheshti-Venkatraman teaches further comprising an internet site (see Venkatraman, col. 4 lines 11-18).

Regarding claim 140, Beheshti-Venkatraman teaches further comprising an email list of personnel to notify (see Venkatraman, col. 3 lines 54-64).

Regarding claim 141, Beheshti-Venkatraman teaches wherein a third-party may access the webpage to monitor equipment in a leased space (see Venkatraman, col. 3 lines 20-27).

Regarding claim 142, Beheshti-Venkatraman teaches wherein the relative humidity sensor comprises a ceramic plate that shrinks or expands with changes in relative humidity (see Beheshti, col. 7 lines 53-59).

Regarding claim 143, Beheshti-Venkatraman teaches wherein the webpage is accessible by clicking on a link at an online auction site (see Venkatraman, col. 5 lines 35-39).

Regarding claim 144, Beheshti-Venkatraman teaches wherein the system is self-contained and is remote from an end user computer (see Beheshti, col. 2 lines 60-61).

Regarding claim 145, Beheshti-Venkatraman teaches further comprising an event log (see Beheshti, col. 7 lines 60-65).

Regarding claim 146, Beheshti-Venkatraman teaches further comprising a list of user-specified thresholds for each monitored environmental parameter (see Beheshti, col. 7 lines 53-59).

6. Claims 147-178 are rejected under 35 U.S.C. 103(a) as being unpatentable over Beheshti et al. (Beheshti), U. S. Patent No. 5955946 in view of Venkatraman et al. (Venkatraman), U. S. Patent No. 6139177, and further in view of Hunter et al. (Hunter), U. S. Patent No. 6363422.

Regarding claim 147, Beheshti discloses an apparatus comprising:
a sensor configured to measure ambient conditions with respect to monitored equipment, the sensor physically uncoupled and spaced apart from the monitored

equipment and the sensor configured to measure the ambient conditions without use of a bi-directional communication link between the sensor and the monitored equipment, the sensor configured to generate a sensor signal associated with the measured ambient conditions, the sensor selected from a group consisting of a temperature sensor, a relative humidity sensor, and an air flow sensor (see Beheshti, col. 7 lines 53-59; sensor monitors environmental conditions); at least one microprocessor responsive to the sensor signal (see Beheshti, col. 7 lines 8-28); memory coupled to the at least one microprocessor (see Beheshti, col. 7 lines 13-25). Although Beheshti discloses the invention substantially as claimed, it does not explicitly disclose a web server configured to provide a webpage associated with the sensor signal via the at least one port.

Venkatraman teaches a system having web access functionality in a device wherein the device's data is displayed on a web page (see Venkatraman, col. 4 lines 4-10).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to combine the teachings of Venkatraman with that of Beheshti. Motivation for doing so would have been to provide a webpage display for result of the sensor which in turn reduces the cost of having the web functionality embedded in the device (see Venkatraman, col. 2 lines 12-18).

Although Beheshti-Venkatraman discloses the invention substantially as claimed, they do not explicitly disclose video camera circuitry coupled to the at least one microprocessor, the video camera circuitry configured to acquire an image of the monitored equipment.

Hunter teaches a method for monitoring management system facilities wherein a video camera is utilized to monitoring the activities surrounding the monitored systems (see Hunter, col. 9 lines 42-61). At the time of the invention it would have been obvious to a person of ordinary skills in the art to combine the teaching of Hunter with that of Beheshti-Venkatraman. Motivation for doing so would have been to provide a visual monitoring of the equipments from remote locations (see Hunter, col. 3, lines 20-23).

Regarding claims 148-174, the limitations disclosed in these claims have already been rejected (see claims 94-146). Same rational used to rejected claims 94-146 equally applies to claims 148-174.

Regarding independent claim 175, the limitations of this claim have already been addressed (see claim 93 and 147). The same motivation utilized in the combination of claims 93 & 147, equally applies as well to claim 175.

Regarding claim 176, Beheshti-Venkatraman-Hunter teaches further comprising an interface configured to access an external camera (see Hunter, col. 9 lines 42-61). The same motivation utilized in the combination of claim 147, equally applies as well to claim 176.

Regarding claim 177, Beheshti-Venkatraman-Hunter teaches wherein the alarm notification includes an image from the external camera (see Venkatraman, col. 4 liens

4-10). The same motivation utilized in the combination of claim 147, equally applies as well to claim 177.

Regarding claim 178, Beheshti-Venkatraman-Hunter teaches further comprising an email module configured to send email (see Venkatraman, col. 3 lines 54-64). The same motivation utilized in the combination of claim 147, equally applies as well to claim 178.

Prior Art of Record

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Please refer to form PTO-892 (Notice of Reference Cited) for a list of relevant prior art.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to MOHAMED IBRAHIM whose telephone number is (571)270-1132. The examiner can normally be reached on Monday through Friday from 7:30AM to 5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William C. Vaughn, Jr. can be reached on 571-272-3922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Mohamed Ibrahim/
Examiner, Art Unit 2444

/Paul H Kang/
Primary Examiner, Art Unit 2444